



SANTA CLARA COUNTY POLICE CHIEFS' ASSOCIATION

**CALIFORNIA
HIGHWAY PATROL**

**CAMPBELL
POLICE DEPARTMENT**

**GILROY
POLICE DEPARTMENT**

**LOS ALTOS
POLICE DEPARTMENT**

**LOS GATOS/
MONTE SERENO
POLICE DEPARTMENT**

**MILPITAS
POLICE DEPARTMENT**

**MORGAN HILL
POLICE DEPARTMENT**

**MOUNTAIN VIEW
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**PALO ALTO
POLICE DEPARTMENT**

**SAN JOSE
POLICE DEPARTMENT**

**SAN JOSE
STATE UNIVERSITY
POLICE DEPARTMENT**

**SANTA CLARA COUNTY
DISTRICT ATTORNEY**

**SANTA CLARA COUNTY
SHERIFF'S OFFICE**

**SANTA CLARA
POLICE DEPARTMENT**

**SUNNYVALE
DEPARTMENT OF
PUBLIC SAFETY**

March 21, 2019

Hon. Joe Simitian, President
Members of the Board of Supervisors
70 West Hedding Street, 10th Floor, East Wing
San Jose, CA 95110

Dear President Simitian and Members of the Board:

As Santa Clara County's municipal police chiefs, Sheriff and District Attorney, we are encouraged by your interest to understand the impacts of existing policy refusing to notify Immigration and Customs Enforcement (ICE) regarding deportable individuals who have committed crimes and pose a potential threat to public safety following Ms. Bambi Larson's tragic death and we advocate for your continued commitment to consider alternatives that would provide a balanced approach to immigrant rights and protecting the people in Santa Clara County.

We look forward to collaborating with you on reassessing the County's current policy and practice, and we believe Santa Clara County can accomplish a balanced approach by adopting policies consistent with the California Values Act, which, as you are aware, was passed by the state legislature and was signed by Governor Brown on October 4, 2017. A model policy consistent with the California Values Act is attached for your review and consideration.

Contrary to other immigrant-focused initiatives that our agencies have supported, the existing policy that allows predatory criminals to evade lawful deportation requests makes everyone less safe. The County's policy, which predates California's law allowing the safe transfer of individuals deemed to be a threat to public safety to federal immigration officials, undermines the safety of the communities we collectively seek to protect, to include law abiding immigrants. The recent murder in San Jose of Ms. Larson is a prime example of a failure of this policy, and we are seeking to avert a similar tragedy in the future.

We understand there is fear in certain segments of our communities regarding federal immigration law enforcement. The members of this association are proud of our joint stance on immigration enforcement that our association made public in the March 9, 2017, letter addressed to the residents of Santa Clara County, reaffirming the priorities of serving documented and undocumented immigrants in our communities (see attachment). We are supportive of Santa Clara County's efforts in building and maintaining trust with our undocumented residents. We stand by our joint statement, and assure you that Santa Clara County's law enforcement agencies will continue to protect and serve them; we strive to calm the fears, build trust and legitimacy, and provide a safe environment in which all can live without fear of criminal victimization or unreasonable government intrusion.

Thank you for considering our perspective. We owe it to our communities, whether documented or undocumented, to find a solution that facilitates notifying federal immigration authorities about dangerous individuals who pose a threat to the safety of all the people we serve and protect.

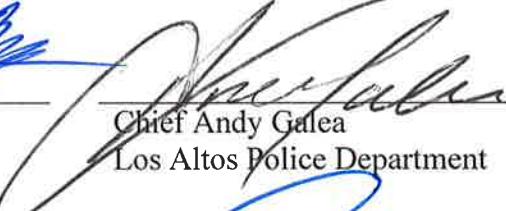
Sincerely,

Members of the Santa Clara County Police Chiefs' Association

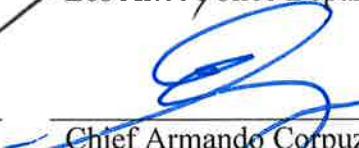

Chief Max Bosel, President
Mountain View Police Department


Chief David Carmichael, Secretary
Campbell Police Department

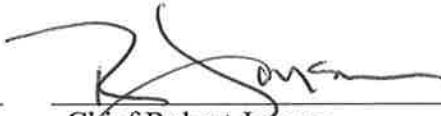

Chief Scot Smithee
Gilroy Police Department


Chief Andy Galea
Los Altos Police Department


Chief Peter Decena
Los Gatos/Monte Sereno Police Dept.


Chief Armando Corpuz
Milpitas Police Department


Chief David Swing
Morgan Hill Police Department


Chief Robert Jensen
Palo Alto Police Department


Chief Edgardo Garcia
San Jose Police Department


Interim Chief Alan Cavallo
San Jose State University Police Dept.


District Attorney Jeff Rosen
Santa Clara County District
Attorney's Office


Sheriff Laurie Smith
Santa Clara County Sheriff's Office


Chief Michael Sellers
Santa Clara Police Department



Proposed Santa Clara County Sheriff Department Policy

General Order #XX-XX

**Subject: SB54 - The California Values Act,
Law Enforcement Data Sharing**

Effective: XX/XX/XXXX

- I. Purpose:** To provide staff with guidelines on their duties and responsibilities associated with the California Values Act, SB54. In summary, this law, restricts communications between a local law enforcement agency and Immigration Customs Enforcement (ICE). It limits inmate transfers to ICE in some cases, and expressly prohibits transfers for certain crimes.
- II. Policy:** The Santa Clara County Sheriff's Office will follow the provisions of the California Values Act. The Sheriff's Office will only honor ICE Notification Requests for inmate outdates as allowable under state law.

This general order repeals and replaces previous general orders and policies related to cooperation with federal immigration agents in the Santa Clara County Jail.

Under no circumstances shall a person be contacted, detained, arrested, or have their custody time extended by agency members based solely on his/her immigration status whether known or unknown.

III. ICE Access:

A. ICE Interviews:

The Values Act permits ICE agents to access county jail inmates IF the Inmate gives consent. Before an individual in custody is made available for an interview with ICE, Sheriff's Personnel will provide the inmate with a consent form (Truth Act Form 1 attached). The consent form contains a header with the required language translations as defined in the California Government Code.

1. Interview Access

ICE will only be permitted to proceed with interviews on those inmates that consent. If the inmate wants an attorney present, the interview will have to be postponed until such time the attorney is available to represent the inmate during the interview.

B. The California Values Act Prohibits providing office space exclusively dedicated to immigration authorities. Accordingly, ICE use of an intermittent occupancy of a work space in the county jail was revoked at _____.

IV. Procedure for ICE Requests, Notifications or Transfers:

- A. Upon receiving an ICE notification or transfer request for any individual:
 1. The California Values Act prohibits using agency or department moneys or personnel for immigration purposes. Sheriff's personnel can review and verify ICE has provided appropriate documentation to prove that information sharing is allowable under California Law.
 2. All ICE requests must be accompanied by supporting documentation to show that the inmate in question has a qualifying charge. ICE is required to attach supporting criminal history information if a qualifying charge exists. Personnel must view and verify NCIC or CLETS source document (or copy) to verify charges before searching the SB54 charges list. ICE requests that do not include supporting criminal history information will NOT be honored or acted upon until supporting criminal history information is provided by ICE. SB54 prohibits the use of agency resources for immigration enforcement so Sheriff's personnel are not permitted to conduct follow up investigation or begin "searching" for SB54 qualifying charges. If qualifying charges or convictions exist, ICE will have to include verification.
 - i. Once supporting documentation is received, personnel will query the SB54 charges list to determine if the inmate has a qualifying conviction or current charge that would authorize a release of information under the California Values Act. The SB54 Charges list contains the statutory code section along with specific subsections for SB54 eligible charges.
 - ii. The SB54 charges list contains both "qualifying" and "prohibited" code sections. The "qualifying" charges include an eligibility time constraint. Serious and violent felony convictions are qualifying charges for life. Most felony convictions are qualifying charges for 15 years. Some misdemeanor convictions are qualifying charges for 5 years. MOST misdemeanor convictions are NOT qualifying charges under SB54.
 - iii. If a specific crime code section IS an SB54 qualifying charge, the SB54 list will show a corresponding time constraint for the charge (lifetime, 15 years, or 5 years.) If a crime code section is NOT an SB54 qualifying charge (e.g. Prop 47), the list will show that crime is "prohibited" and the outdate can NOT be shared with ICE. If a crime code section is not on the SB54 list (most misdemeanors) then the inmate outdate can NOT be shared with ICE.
 3. There are many variables that could impact an inmate's SB54 status. The current charges and / or criminal history will show specific criminal convictions. Based on charges or convictions; there are many options addressing whether a transfer to ICE is appropriate. Personnel will compare the proof of conviction / charges to the SB54 list. If a qualifying charge exists, personnel will determine if the conviction in question is an allowable charge and within appropriate time requirements.

- a. The majority of qualifying offenses within SB54 require a conviction. However, violent felonies (667.5 PC) and serious felonies (1192.7 PC) need only to be charged and have a probable cause finding by a court (872 PC). If a current inmate is charged with a serious or violent felony and the court has made a probable cause finding after a preliminary hearing, the inmate is eligible for transfer to ICE.
4. Sheriff's Personnel must verify there is a qualifying charge or conviction BEFORE agreeing to share an inmate outdate with ICE. If information sharing is allowable:
 - a. The inmate will be given a copy of the request.
 - b. The inmate will be given a copy of the attached notification form (Truth Act Form 2 attached) indicating whether the agency intends to comply with the request.
 - c. Santa Clara County Sheriff's Office will only comply with ICE notification requests (I-247N) if the inmate has a qualifying conviction or is otherwise eligible under the California Values Act.

V. ICE Requests for Holds:

1. Santa Clara County Sheriff's Office will NOT comply with ICE detainer requests (I-247D) or Warrant of Arrest of Alien (I-200). The Sheriff's Office will only hold inmates beyond their outdates if there is a judicial warrant signed by a federal judge or magistrate.

VI. Notifying ICE of Inmate Release:

1. If the Sheriff's Office notifies ICE that an inmate is being, or will be, released on a certain date and time, the officer providing that information to ICE shall promptly provide the same notice, using TRUTH Act Form 3, to the inmate. The Sheriff's Office will also notify the individual's attorney or other designee, using the contact information provided by the individual on TRUTH Act Form 2. If notification to the attorney or designee is provided by phone, the Sheriff's Office will subsequently provide, by email, the attorney or designee with a written copy of the notice given to the individual on TRUTH Act Form 3.

VII. Transfer of Inmate Custody to ICE

Transferring inmates to ICE custody within the county jail is permissible if the inmate has an SB54 qualifying charge or conviction.

- a. Inmates with SB54 qualifying charges or convictions may be transferred to ICE. If ICE agents are present at the time of an inmate release, those agents may enter the county jail so the transfer can take place in a secure environment and

minimize the risks associated with field arrests. Inmates can NOT be held beyond their normal release date or time based upon an ICE hold request, notification request, or transfer request.

- b.** If any inmate does not have an SB54 qualifying conviction or charge, the inmate can NOT be transferred to ICE.

VIII. Public Records Act Requests

- 1. Inmate outdates are public records and subject to release in accordance with the California Government Code. However, if any inmate outdate is shared with ICE, all the provisions and requirements of the TRUTH Act are applicable. If ICE makes any request for a “public record” outdate, the date may be shared with ICE. If a public record request for an outdate, is granted to ICE personnel, the TRUTH Act form 2 must be served to the inmate whose outdate was released.
 - a) The only time ICE can pick up an inmate inside the jail is for confirmed SB54 eligible charges. ICE is prohibited from coming inside the jail for an inmate transfer upon release based upon outdate information shared under a Public Records request for non-SB54 eligible charges.

AB2792 – The Truth Act, ICE Access to Individuals in Local Law Enforcement Custody

- I. Purpose:** To provide staff with guidelines on their duties and responsibilities associated with the Truth Act. In summary, The Truth Act, requires a local law enforcement agency, to provide inmates with a written consent form prior to an interview with ICE, to provide inmates with copies of any ICE requests, provide inmates with information as to whether the agency will comply with ICE requests, and provide the inmate with copies of any information the agency shares with ICE.

- II. Policy:** The Santa Clara County Sheriff's Office will follow the provisions of the Truth Act and maintain a cooperative law enforcement partnership with ICE. The Sheriff's Office will continue to honor ICE Notification Requests.

Under no circumstances shall a person be contacted, detained, arrested, or have their custody time extended by agency members based solely on his/her immigration status whether known or unknown.

III. Translations to other languages (Truth Act Forms 1-3)

If an inmate requests the forms be provided in one of the other languages, Officers can utilize the telephonic translation service at 800-XXX-XXXX*. Officers will read the consent form verbatim as the context is translated to the inmate. If an officer is certified bilingual in the appropriate language (i.e. Spanish) the officer can translate the form without utilizing the telephonic translation service.

*Forms are being developed in all required languages. Forms will replace “translation” as soon as they are completed and approved.

IV. ICE Access:

A. ICE Interviews:

Before an individual in custody is made available for an interview with ICE, Sheriff's Personnel will provide the inmate with a consent form (Truth Act Form 1). The consent form contains a header with the required language translations as defined in the California Government Code.

1. Interview Access

ICE will only be permitted to proceed with interviews on those inmates that consent. If the inmate wants an attorney present, the interview will have to be postponed until such time the attorney is available to represent the inmate during the interview.

V. ICE Requests for Holds, Notifications, or Transfers:

A. Upon receiving an ICE hold, notification, or transfer request for any individual:

1. The inmate will be given a copy of the request.
2. The inmate will be given a copy of the attached notification form (Truth Act Form) indicating whether the Department intends to comply with the request.
 - i. Santa Clara County Sheriff's Office will comply with ICE notification requests (I-247N).
 - ii. Santa Clara County Sheriff's Office will NOT comply with ICE detainer requests (I-247D)

VI. Notifying ICE of Inmate Release:

A. If the Department notifies ICE that an inmate is being, or will be, released on a certain date and time, the officer providing that information to ICE shall promptly provide the same notice, using TRUTH Act Form 3, to the inmate. The Department will also notify the individual's attorney or other designee, using the contact information provided by the individual on TRUTH Act Form 2. If notification to the attorney or designee is provided by phone, the Department shall subsequently provide, by email, the attorney or designee with a written copy of the notice given to the individual on TRUTH Act Form 3.



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POLICE DEPARTMENT

SUNNYVALE
DEPARTMENT OF
PUBLIC SAFETY

March 9, 2017

Dear Santa Clara County residents and guests,

Speaking as law enforcement professionals who are entrusted to protect our communities, it is with great concern that we find ourselves at a time when many in our most vulnerable communities have grown uncertain that they are safe in their own homes, their own jobs, their own neighborhoods, even within their places of worship. Their new fear is not that criminals will victimize them, but that their own local government may target them based on their immigration status.

Immigration issues are a sensitive issue in our county. The fear of local police departments undertaking immigration enforcement has been a lingering thought in some of our most vulnerable communities; however, never more than now. The Santa Clara County Police Chiefs' Association wishes to reassure our communities that our stance on immigration enforcement will remain consistent throughout our county. The agencies of this county will not enforce federal immigration laws. Our officers will not detain or arrest any person on the basis of the person's citizenship or status under civil immigration laws. It is not our mission nor our role. Our departments recognize that mutual trust and respect is the cornerstone in building a solid foundation for our success, and we will treat all of our residents with dignity regardless of status.

We will always encourage victims and witnesses to contact our departments about reporting or witnessing crime without fear of reprisal as without this cooperation we would be ineffective as public servants. Because of the trust we have built together, we have been able to solve crimes that would have otherwise affected our entire county, because of this trust we have brought justice to many victims. We have enjoyed tremendous support from our communities and want to reassure everyone that the Santa Clara County Police Chiefs' Association wishes to maintain strong ties with our immigrant community.

We understand there is fear in certain segments of our community. We are here to assure you that we will continue to serve and protect in a way that seeks to calm fear and build trust. Your local law enforcement agencies look forward to continuing to partner with all of our residents to provide a safe environment for all.

Sincerely,

Chief David L. Swing
President, Santa Clara County Police Chiefs' Association

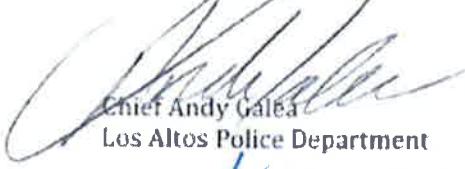
The Santa Clara County Police Chiefs' Association is here to assure you that we will continue to serve and protect in a way that seeks to calm fear and build trust. The following agencies look forward to continuing to partner with all of our residents to provide a safe environment for all.



Chief David Carmichael
Campbell Police Department



Interim Chief Scot Smith
Gilroy Police Department



Chief Andy Galea
Los Altos Police Department



Interim Chief Michael D'Antonio
Los Gatos/Monte Sereno Police Department



Chief Steve Pangilinan
Milpitas Police Department



District Attorney Jeff Rosen
Santa Clara County District Attorney's Office



Sheriff Laurie Smith
Santa Clara County Sheriff's Office



Chief David Swing
Morgan Hill Police Department



Chief Max Bosel
Mountain View Police Department



Interim Chief Ron Watson
Palo Alto Police Department



Chief Edgardo Garcia
San Jose Police Department



Chief Peter Decena
San Jose State University Police Department



Chief Michael Sellers
Santa Clara Police Department



Chief Phan Ngo
Sunnyvale Department of Public Safety